THE HON'BLE SRI JUSTICE RAJA ELANGO

C.A.No.849 of 2013 and CA (SR) Nos.4797, 4798 & 4799 of 2013
In
C.A.No.1717 of 2005
In
C.P.No.173 of 2001.

COMMON ORDER

The petitioner availed a loan for a sum of Rs.1,00,000/-from the first respondent Company payable in 12 equal monthly installments @ Rs.9,584/-. He paid five installments regularly and thereafter, he has not paid as the said company is not functioning. It is stated that this Court appointed the Official Liquidator on behalf of the first respondent Company (under liquidation) vide order dated 12.02.2002 in C.P.No.173 of 2001. Subsequently, the Official Liquidator of the first respondent Company filed C.A.No.1717 of 2005 in C.P.No.173 of 2001 against the petitioner and others seeking to pass a decree for a sum of Rs.65,840/-. By order dated 29.09.2006, this Court passed a decree against the petitioner and others for a sum of Rs.65,840/- along with interest at 15% per annum from 24.11.2000 till the date of realization.

2. In Ex.Case No.122 of 2013 on the file of Principal Senior Civil Judge, Shimoga, Karnataka State, a notice was issued to the petitioner on 10.07.2013 directing him to pay a sum of Rs.2,23,256/- as against the original due amount of Rs.65,840/-. Thereupon, the petitioner filed the present applications seeking to condone the delay of 2480 days in filing an application for setting aside the order dated 29.09.2006 passed in C.A.No.1717 of 2005

in C.P.No.173 of 2001, to waive the rate of interest by setting aside the said order and to stay all further proceedings in Ex.Case No.122 of 2013 in C.A.No.1717 of 2005 in C.P.No.173 of 2001, respectively.

3. On 26.07.2013, when the matter came up for hearing, learned counsel for the petitioner has produced before this Court a demand draft bearing No.034716, dated 12.07.2013, for a sum of Rs.65,840/- drawn on Oriental Bank of Commerce in favour of the Official Liquidator towards payment of the decretal amount and in view of the said payment, this Court granted interim stay of all further proceedings in Ex.Case No.122 of 2013 in C.A.No.1717 of 2005 in C.P.No.173 of 2001.

4. Learned counsel for the petitioner submits that the petitioner has paid the entire decretal amount and now he is not in a position to pay the interest amount due. Thus, he prays to allow these applications.

5. Learned Counsel for the Official Liquidator submits that the interest amount calculated @ 15% per annum would come to Rs.1,33,000/- and if a lenient view is taken, the petitioner may be directed to pay a sum of Rs.20,000/-towards advocate's fee, Rs.1,000/-towards E.P.costs and Rs.3,040/-towards publication charges.

6. In view of the submissions made by the learned counsel on either side, the interest amount directed to be paid by the petitioner is hereby waived. The petitioner is directed to pay Rs.20,000/-towards Advocate's fee, Rs.1,000/-towards E.P.costs

and Rs.3,040/-towards publication charges, in total, Rs.24,040/- within a period of one week from the date of receipt of a copy of this order.

7. With the above direction, the Company Applications are disposed of. No costs.

JUSTICE RAJA ELANGO

31st July,2013
sj